

HOUSE BILL 1972

By Harmon

AN ACT to amend Tennessee Code Annotated, Title 4,
Chapter 3, Part 5; Title 5; Title 6; Title 7; Title 65;
Title 67; Title 68 and Title 69, relative to water.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 221, is amended by adding the following language as a new part:

Section 68-221-1401. This part shall be known and may be cited as the
"Tennessee Water Conservation and Drought Preparedness Act of 2009".

Section 68-221-1402. As used in this part, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of the department of
environment and conservation;

(2) "Community water system" means a public water system that serves
at least fifteen (15) service connections used by year-round residents of the area
served by the system or that regularly serves at least twenty-five (25) year-round
residents of the area served by the system. A person is a year-round resident of
the area served by a system if the person's primary residence is served water by
that system;

(3) "Customer" means a person who is regularly billed for water service
rendered by a public water system and who pays money for such service;

(4) "Department" means the department of environment and
conservation;

(5) "Large community water system" means a community water system
that serves water to more than one thousand eight hundred fifty (1,850) persons;

(6) "Public water system" means a municipality, county, utility district, sanitary district or any other special district, whether organized by public or private act, providing water service to customers in Tennessee; and

(7) "Small community water system" means a community water system that does not qualify as a large community water system.

Section 68-221-1403.

(a) By the dates specified in subsections (b) or (c) of this section, each community water system shall prepare and submit to the department a system water plan that includes the following components:

- (1) A water supply plan pursuant to § 68-221-1404;
- (2) A drought preparedness plan pursuant to § 68-221-1405; and
- (3) A water conservation plan pursuant to § 68-221-1406.

(b) Except as provided in subsection (c) of this section, a large community water system shall submit its first system water plan to the department on or before January 1, 2010, and shall submit an updated plan within six (6) months prior to January 1 of every fifth calendar year thereafter. A small community water system shall submit its first system water plan to the department on or before January 1, 2011, and shall submit an updated plan within six (6) months prior to January 1 of every fifth calendar year thereafter. At least sixty (60) days prior to the filing deadline, a small community water system may submit a request to the department for an extension of time for filing the first water system plan and the commissioner may extend such time for a period not to exceed one hundred twenty (120) days. If a community water system revises its system water plan after submitting the plan to the department, the community

water system shall submit the revised plan to the department within sixty (60) days from the date of revision.

(c) If more than one (1) community water system serves water to residents within a city, town or county, two (2) or more of the community water systems serving water to residents within that city, town or county may coordinate their efforts in preparing the plans required by this part and may submit a joint plan that contains the information required in this part for that portion of the community supplied by the community water systems instead of submitting individual water system plans. Community water systems that submit a joint plan pursuant to this subsection shall submit the plan to the department by the date on which a small community water system is required to submit its system water plan under subsection (b) of this section. The commissioner may extend the time for filing the first water system plan for a joint plan that includes a small community water system if the request is received sixty (60) days before the filing deadline.

(d) Each water system plan shall be developed by the community water system in accordance with subsection (b) of this section, or systems in accordance with subsection (c) of this section, in consultation with a panel consisting of the following:

(1) The county executive of each county being served by the community water system or the executive's designee;

(2) The executive officer of each municipality being served by the community water system or the officer's designee;

(3) One (1) representative from the commercial customer of the system with the highest volume of water usage per month; provided, that

if such customer is unwilling or unable to serve, then one (1) representative from any commercial customer selected by the system;

(4) One (1) residential customer of the system selected by the system;

(5) One (1) representative of a conservation or environmental organization selected by the county executive of the county with the largest number of customers served by the system; provided, that such member is a customer of the system; and

(6) One (1) builder or developer selected by the county executive of the county with the largest number of customers served by the system; provided, that such member is a customer of the system.

The chief executive officer of the system, or similarly titled individual, shall serve as chair of the panel. Each water system plan shall include a list of the individuals serving on the panel as representatives in the development of the water system plan. Each community water system shall hold at least one (1) public meeting with the members of the panel concerning development of the water system plan.

(e) The department shall review a system water plan, including a revised plan, submitted by a community water system pursuant to subsection (b) of this section and shall notify the community water system in writing as to whether the plan complies with this part. If the department determines that the plan does not comply with this part, the department shall give written notice of that determination to the community water system and give the community water system at least one hundred twenty days (120) to make revisions or additions as are necessary to bring the plan into compliance. If the community water system

does not bring the plan into compliance by the date specified in the notice, the department shall provide notice of the noncompliance to the governing bodies of the cities, towns and counties located within the service area of the community water system and to the members of the general assembly representing the service area. If the commissioner determines that the plan is in compliance with this part but that changes would improve the plan, the department shall give written notice of the changes to the community water system but the water system shall not be required to make the changes. The provisions of this subsection shall also apply to a plan submitted pursuant to subsection (c) of this section.

(f) The water conservation plan shall be implemented by the community water system within twelve (12) months after receiving written notification from the department that the plan complies with this part. For a community water system that receives a notice pursuant to subsection (e) of this section that the water conservation plan does not comply with this part, the water conservation plan shall be implemented within twelve (12) months after the expiration of the date by which the system is required to make revisions or additions to the plan to bring it into compliance, as specified in the notice given to the system under subsection (e) of this section.

(g) The department shall prepare forms that small community water systems may complete and submit as their system water plan under this part. The department shall distribute the forms on a timely schedule and furnish them upon request. Such forms shall be available on the web site of the department. Failure to receive or obtain a form does not relieve any community water system

from the requirement to file a system water plan by the date prescribed in subsections (b) or (c) of this section.

(h) The department shall prepare a guidance document to assist community water systems in preparing the water system plan. The department shall consult with representatives of community water systems in developing the guidance document and the form described in subsection (g) of this section.

Section 68-221-1404. The water supply plan shall evaluate the water supply needs in the service area and propose a strategy to meet identified needs. The plan shall include:

(1) A list and description of service area lands, sources of supply, including emergency sources, well registration numbers and water levels at the well sites, if known, and storage and treatment facilities;

(2) A map and description of existing transmission and distribution facilities; provided, that for a small community water system a map is not required;

(3) A description of monthly system production data categorized by the system's sources of supply and, for systems that use meters to measure withdrawals and diversions, a summary of system average daily demands, maximum monthly demands and an estimate of peak day demands for the past five (5) years;

(4) A list, description and map of existing interconnections and the quantities of water sold to or purchased from other water systems during the previous five (5) years; provided, that for a small community water system a map is not required; and

(5) An analysis of present and future water supply demands for the next three (3), ten (10) and twenty (20) years. Such analysis shall examine residential and commercial development rates in the service area and shall include an estimate of the maximum number of customers that could be served for the next three (3), ten (10) and twenty (20) years and an estimate of the maximum number of customers that could be served during such periods in the case of a water emergency.

Section 68-221-1405. The drought preparedness plan shall be designed to meet the specific needs of the water system for which it applies and shall include:

(1) The name, address and telephone number of the community water system and the names of the officers or other persons responsible for directing operations during a water shortage emergency;

(2) Drought or emergency response stages providing for the implementation of measures in response to reduction in available water supply due to drought or infrastructure failure; and

(3) A plan of action that the community water system will take to respond to drought or water shortage conditions, including:

(A) Provisions to actively inform the public of the water supply shortage and a program for continued education and information regarding implementation of the drought preparedness plan;

(B) Development of emergency supplies, which may include identification of emergency or redundant facilities to withdraw, divert or transport substitute supplies of the same or other types of water; and

(C) Specific water supply or water demand management measures for each stage of drought or water shortage conditions.

Section 68-221-1406. The water conservation plan shall be designed to increase the efficiency of the water system, reduce waste and encourage consumer water conservation efforts. The water conservation plan shall be designed to meet the specific needs of the community water system and shall include both demand and supply management measures including the following:

- (1) Feasible measures that may be implemented to determine and control lost and unaccounted for water;
- (2) Consideration of water rate structures that encourage efficient use of water; and
- (3) A continuing conservation education program containing provisions to actively inform the public of drought conditions and information regarding conservation measures to reduce vulnerability from drought conditions, including:
 - (A) Curtailment of nonessential water uses;
 - (B) Affordable efficiency technologies for indoor and outdoor water use;
 - (C) Rebate and retrofit programs for indoor and outdoor water uses; and
 - (D) Water reuse and recycling programs.

Section 68-221-1407.

(a) Each community water system that is required to file an annual report under this section and that uses meters to measure water withdrawals and diversions shall maintain current, complete, true and correct records of its withdrawals, diversions and deliveries of water in the form as prescribed by the department. Each community water system that is required to file an annual report under this section and that does not use meters to measure water

withdrawals and diversions shall maintain records of the estimated amount of its withdrawals, diversions and deliveries of water in the form as prescribed by the department.

(b) An annual report shall be filed with the department by each community water system. Such report shall include the following information:

(1) If water was pumped or diverted by the community water system during the year:

(A) The quantity of water pumped or diverted and the well registration numbers of any wells used to pump or divert the water; community water systems that do not use meters to measure water pumped or diverted shall estimate the quantity of water pumped or diverted;

(B) The number of customers to whom the community water system delivered water during the year; and

(C) An identification of the number of storage facilities and the storage capacity of each facility;

(2) If water was received by the community water system from another person during the year:

(A) The name of the person from whom the water was obtained;

(B) If the water was pumped or diverted, the registration numbers of any wells used to pump or divert the water, if known;

(C) The quantity of water received during the year;

(D) The number of customers to whom the community water system delivered water during the year; and

(E) An identification of the number of storage facilities and the storage capacity of each facility; and

(3) If effluent that is generated from a wastewater treatment facility was used or received by the community water system during the year, the estimated quantity of effluent generated from the wastewater treatment facility during the year, and the specific uses to which the effluent was applied during the year.

(c) Community water systems shall maintain a current map clearly delineating its service area and distribution system.

(d) The records and reports required to be kept and filed under this section shall be in the form as the department prescribes. The department shall prepare blank forms and distribute them on a timely schedule and furnish them upon request. Such forms shall be available on the web site of the department. Failure to receive or obtain the forms does not relieve any person from keeping the required records or making any required report.

(e) The department shall prepare a guidance document to assist community water systems in maintaining records and preparing reports as required by this section. The department shall consult with representatives of community water systems in developing the guidance document and the form described in subsection (d) of this section.

(f) If a community water system fails to timely file the report prescribed by this section, the department shall provide a written notice to the water system that requires compliance within sixty (60) days of the date of the notice. If the water system does not comply within the sixty (60) day period, the department shall provide notice of that noncompliance to the governing bodies of the cities,

towns and counties located within the service area of the community water system and to the members of the general assembly representing the service area.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.